PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Cary D. Perttunen

Title: METHOD, ARTICLE AND APPARATUS FOR ADVERTISING BASED ON AN ATTRIBUTE OF A COMPUTER NETWORK RESOURCE

Filing Date: July 31, 2000

Applic. No.: 09/629,013

Docket No.: CDP0700

Art Unit: 3622

Examiner: Jeffrey D. Carlson

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this date:

October 13, 2004 (Date) By: Cary D. Perttunen (Typed Name) Cary D. Perttunen (Signature)

APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This appeal brief is filed based on the Office Action mailed August 9, 2004 in which claims 10-14, 16-27 and 29-44 were finally rejected.

Table of Contents

Real Party in Interest

The real party in interest is Cary D. Perttunen.

Related Appeals and Interferences

There are no related appeals or interferences.

Status of Claims

Claims 1-9 and 38 have been canceled. Claims 10-37 and 39-44 have been rejected. The Examiner has withdrawn claims 15, 28 and 45 from consideration.

The claims on appeal are claims 10-14, 16-27, 29-37 and 39-44.

Status of Amendments

A reply after final filed August 25, 2004 has been considered by the Examiner.

Summary of Claimed Subject Matter

The present invention provides methods that enable a referring Web resource, which has a plurality of user-selectable hyperlinks to a plurality of Web resources, to influence targeting of an advertisement resource to display with a Web resource after a user selects a hyperlink to the Web resource.

A first method (based on FIG. 1) and a second method (based on FIG. 2) each comprises reading a plurality of advertiser-usable variables 36 and 40 (page 15, line 30 to page 16, line 1 and page 21, lines 18-20) within at least one script 34 of the referring Web resource 16 from a client node 10 (page 6, lines 3-5). The referring Web resource 16 comprises a plurality of user-selectable hyperlinks (page 4, lines 19-20) including a first user-selectable hyperlink 20 to a first Web resource and a second user-selectable hyperlink 24 to a second Web resource (page 4, lines 21-25). The advertiser-usable variables 36 and 40 include a first advertiser-usable variable 36 specific to the first Web resource and a second advertiser-usable variable 40 specific to the second Web resource (page 6, lines 12-16). The act of reading may be performed in response to receiving an advertisement request 46 associated with the referring Web resource 16 (page 15, lines 13-17, and page 15, line 29 to page 16, line 1).

The first method further comprises storing the first advertiser-usable variable 36 and the second advertiser-

usable variable 40 in at least one cookie 52 for the client node 10 before any of the user-selectable hyperlinks have been user-selected from the referring Web resource 16 using the client node 10 (page 16, lines 1-6). After the first hyperlink 20 has been user-selected from the referring Web resource 16 using the client node 10 (page 16, lines 28-30), the client node 10 displays a first advertisement 60 with the first Web resource 54 (page 19, line 1 to page 20, line 2). The first advertisement 60 is targeted to the client node 10 by an advertisement server node 44 based on the first advertiser-usable variable 36' stored in the at least one cookie 52 (page 18, lines 6-8).

To provide the first advertisement 60 after the first hyperlink has been user-selected, the advertisement server node 44 may perform acts of receiving an advertising request 56 associated with the first Web resource 54 (page 17, lines 13-16), retrieving the first advertiser-usable variable 36' from the at least one cookie 52 (page 17, lines 16-19), selecting the first advertisement 60 from a plurality of advertisements based on the first advertiser-usable variable 36' (page 17, line 29 to page 18, line 1), and providing the first advertisement 60 (page 19, lines 22-25) to display with the first Web resource 54 by the client node 10 (page 19, line 29 to page 20, line 1).

In the second method, said reading is performed by an advertisement server node 44 before any of the user-selectable hyperlinks have been user-selected from the referring Web resource 16 using the client node 10 (page 21,

lines 16-25). The second method further comprises storing the first advertiser-usable variable 36 and the second advertiser-usable variable 40 in a database 70 of the advertisement server node 44 before any of the user-selectable hyperlinks have been user-selected from the referring Web resource 16 using the client node 10 (page 21, lines 21-25). After the first hyperlink 20 has been user-selected from the referring Web resource 16 using the client node 10 (page 23, lines 2-3), the client node 10 displays a first advertisement 60 with the first Web resource 54 (page 24, lines 7-9). The first advertisement 60 is targeted to the client node 10 by the advertisement server node 44 based on the first advertiser-usable variable 36'' stored in the database 70 (page 24, lines 1-3).

To provide the first advertisement after the first hyperlink has been user-selected, the advertisement server node 44 may perform acts of receiving a first advertising request 56 associated with the first Web resource 54 (page 23, lines 16-19), retrieving the first advertiser-usable variable 36'' from the database 70 of the advertisement server node 44 (page 23, lines 21-23), selecting the first advertisement 60 from a plurality of advertisements based on the first advertiser-usable variable 36'' (page 24, lines 1-3), and providing the first advertisement 60 to display with the first Web resource 54 by the client node 10 (page 24, lines 4-9).

In either of the first and second methods, the first advertiser-usable variable 36' or 36'' and the second

advertiser-usable variable 40′ or 40′′ may be defined by a tree which relates a plurality of Web resources that include the first Web resource and the second Web resource (page 7, lines 24-28). An advertiser-usable variable may indicate a level number of its associated Web resource within the tree (page 12, lines 20-22), or may indicate that the associated Web resource is an internal resource of the tree (page 13, lines 3-6), or may indicate that the associated Web resource is a leaf resource of the tree (page 13, lines 3-6). Alternatively, an advertiser-usable variable may be based on which of the Web resources that have a predetermined level number in the tree is an ancestor of its associated Web resource in the tree (page 13, lines 25-28).

A third method comprises targeting an advertisement 60 to a particular numerical range of one or more positions in browsing sequences of Web resources (page 18, line 19 to page 19, line 2). A user selection of a hyperlink 20 to a Web resource 54 having a browsing sequence position within the particular numerical range associated with the advertisement 60 is received from a client node 10 (page 16, lines 28-30). The advertisement 60 is selected to display with the Web resource 54 based on said targeting and the browsing sequence position of the Web resource 54 (page 18, line 19 to page 19, line 2). The advertisement 60 is provided to the client node 10 (page 19, lines 22-25), and displayed with the Web resource 54 by the client node 10 (page 19, line 29 to page 20, line 1).

Grounds of Rejection to be Reviewed on Appeal

There are five grounds of rejection to be reviewed in this appeal.

Claims 36-37 and 39-41 stand rejected under 35 U.S.C. 102(a) as being anticipated by Culliss (U.S. Patent No. 6,078,916).

Claims 10-12, 14, 16-25, 27, 29-36 and 39-41 stand rejected under 35 U.S.C. 103(a) as being obvious based on Culliss in view of Cohn et al. (U.S. Patent No. 6,308,202).

Claims 13 and 26 stand rejected under 35 U.S.C. 103(a) as being obvious based on Culliss in view of Cohn et al. and Merriman et al. (U.S. Patent No. 5,948,061).

Claim 37 stands rejected under 35 U.S.C. 103(a) as being obvious based on Culliss in view of Cohn et al. and Davis et al. (U.S. Patent No. 6,269,361).

Claims 42-44 stand rejected under 35 U.S.C. 103(a) as being obvious based on Culliss in view of Cohn et al. and www.cookiecentral.com.

Argument

Rejection of claims 36-37 and 39-41 under 35 U.S.C. 102(a) over U.S. Patent No. 6,078,916 (Culliss)

The Examiner's entire basis of the above rejection of claims 36-37 and 39-41 consists of only two sentences: "column 17 (of Culliss) teaches providing advertising with search results based on a search term"; and "regarding claim 40, the system is capable of providing a single search result". In light of the brevity of the rejection, it is clear that the Examiner has not considered all, or even most, of the limitations in claims 36-41. Further, the Examiner has misinterpreted column 17 of Culliss. Separate arguments for the individual claims are as follows.

Claim 36

Applicant contends that claim 36 clearly distinguishes over Culliss, and that the Examiner has erred by misinterpreting Culliss, and by not considering all of the limitations in claim 36 in the above rejection.

Claim 36 recites targeting an advertisement to a particular numerical range of one or more positions in browsing sequences of Web resources, receiving from a client node a user selection of a hyperlink to a Web resource having a browsing sequence position within the particular numerical range associated with the advertisement, and selecting the advertisement to display with the Web resource based on said targeting and the browsing sequence position

of the Web resource.

In contrast, Culliss teaches including advertising banners on a search page of hyperlinks to articles, but does not disclose or suggest targeting a subsequent advertisement, which is displayed with an article after the user selects a hyperlink to the article from the search page, based on the browsing sequence position of the article.

Thus, claim 36 clearly distinguishes over Culliss, and there is no factual basis for the rejection.

Claim 37

Applicant contends that claim 37 clearly distinguishes over Culliss, and that the Examiner has erred by not considering any of the limitations in claim 37 in the above rejection.

Claim 37, which depends from claim 36, features billing rates to charge for the advertisement displayed with the user-selected Web resource based on the browsing sequence position of the user-selected Web resource being within the particular numerical range associated with the advertisement. A higher billing rate is charged for the advertisement for a first browsing sequence position than for a second browsing sequence position, wherein the first browsing sequence position is defined by a first level number and the second browsing sequence position is defined by a second level number, and wherein the first level number is less than the second level number.

In contrast, Culliss teaches including advertising banners on a search page of hyperlinks to articles, but does not disclose or suggest charging a billing rate for a subsequent advertisement, which is displayed with an article after the user selects a hyperlink to the article from the search page, based on the browsing sequence position of the article.

Based on the above argument and its dependency from claim 36, claim 37 clearly distinguishes over Culliss, and there is no factual basis for the rejection.

Claim 39

Applicant contends that claim 39 clearly distinguishes over Culliss, and that the Examiner has erred by misinterpreting Culliss, and by not considering the limitations in claim 39 together with the limitations in base claim 36 in the above rejection.

Claim 39 includes performing a search based on a search expression received from a client node, and providing to the client node a referring Web resource having user-selectable hyperlinks to search-identified Web resources, wherein the hyperlink whose user selection is received in claim 36 is one of the user-selectable hyperlinks of the referring Web resource. Thus, claim 39 clearly distinguishes between: (a) the referring Web resource (e.g. a search page) having links to the search-identified resources and (b) the search-identified Web resource (e.g. an article) with which the advertisement, selected based on the browsing sequence

position of the search-identified Web resource, is displayed.

In contrast, Culliss discloses advertising banners that could be included with the referring Web resource of claim 39 (which could be a search page of hyperlinks to articles). However, Culliss does not disclose or suggest targeting a subsequent advertisement, which is displayed with an article after the user selects a hyperlink to the article from the search page, based on the browsing sequence position of the article.

Based on the above argument and its dependency from claim 36, claim 39 clearly distinguishes over Culliss, and there is no factual basis for the rejection.

Claim 40

Applicant contends that claim 40 clearly distinguishes over Culliss, and that the Examiner has erred by misinterpreting Culliss, and by not considering the limitations in claim 40 together with the limitations in base claim 36 in the above rejection.

Claim 40, together with base claim 36, features targeting an advertisement to a particular numerical range consisting of one position defined by one level number in browsing sequences of Web resources, receiving from a client node a user selection of a hyperlink to a Web resource having a browsing sequence position within the particular numerical range associated with the advertisement, and selecting the advertisement to display with the Web resource

based on said targeting and the browsing sequence position of the Web resource.

In contrast, Culliss teaches including advertising banners on a search page of hyperlinks to articles, but does not disclose or suggest targeting a subsequent advertisement, which is displayed with an article after the user selects a hyperlink to the article from the search page, based on the browsing sequence position of the article being in a particular numerical range consisting of one position. The Examiner's statement that Culliss is capable of providing a single search result is irrelevant because, among other things, he continues to focus on the wrong Web resource, namely the search page of hyperlinks to articles.

Based on the above argument and its dependency from claim 36, claim 40 clearly distinguishes over Culliss, and there is no factual basis for the rejection.

Claim 41

Applicant contends that claim 41 clearly distinguishes over Culliss, and that the Examiner has erred by not considering the limitations in claim 41 together with the limitations in base claim 36 in the above rejection.

Claim 41, together with base claim 36, features targeting an advertisement to a particular numerical range comprising a plurality of positions defined by a plurality of level numbers in browsing sequences of Web resources, receiving from a client node a user selection of a hyperlink to a Web resource having a browsing sequence position within

the particular numerical range associated with the advertisement, and selecting the advertisement to display with the Web resource based on said targeting and the browsing sequence position of the Web resource.

In contrast, Culliss teaches including advertising banners on a search page of hyperlinks to articles, but does not disclose or suggest targeting a subsequent advertisement, which is displayed with an article after the user selects a hyperlink to the article from the search page, based on the browsing sequence position of the article being in a particular numerical range comprising a plurality of positions defined by a plurality of level numbers.

Based on the above argument and its dependency from claim 36, claim 41 clearly distinguishes over Culliss, and there is no factual basis for the rejection.

Rejection of claims 10-12, 14, 16-25, 27, 29-36 and 39-41 under 35 U.S.C. 103(a) over U.S. Patent No. 6,078,916 (Culliss) and U.S. Patent No. 6,308,202 (Cohn et al.)

Based on the following arguments, Applicant contends that the Examiner has erred in the aforementioned rejection by not considering all of the claim limitations, by basing the rejections on factually incorrect statements, and by not interpreting three claim terms based on their conventional definitions. Thus, Applicant contends that claims 10-12, 14, 16-25, 27, 29-36 and 39-41 are patentable over Culliss in view of Cohn et al.

Claims 10-12 and 23-25

The rejection of claims 10-12, 24 and 25 is based on the Examiner stating that it would have been obvious to have included advertising with the system of Culliss based on the selected link(s) so as to generate revenue. However, the aforementioned claims do not merely recite advertising with selected link(s), but describe methods that enable a referring Web resource, which has a plurality of user-selectable hyperlinks to a plurality of Web resources, to influence targeting of an advertisement resource to display with a Web resource after a user selects a hyperlink to the Web resource by having at least one script that includes advertiser-usable variables specific to the Web resources.

In claim 10, the advertiser-usable variables are read from the script and stored in at least one cookie for the client node before any of the hyperlinks have been selected. In claim 23 (from which claims 24 and 25 depend), the advertiser-usable variables are read from the script by an advertisement server node and stored in a database of the advertisement server node before any of the hyperlinks have been selected. In either claim, after a hyperlink to a Web resource is selected, the stored advertiser-usable variable specific to the selected Web resource is used by the advertisement server node to target an advertisement to the client node for display with the selected Web resource.

The rejection of claim 23 is further based on the Examiner stating that providing dynamic web page results inherently includes reading of the links, the link

information and the link order as it renders a dynamic HTML page of search results. However, as the rejection is presently understood by the Applicant, the Examiner is referring to acts performed by a client node to render a Web page. In contrast, claim 23 describes an advertisement server node reading the advertiser-usable variables from a client node. Further, "reading the link order" (i.e. reading the links in the order that they are presented in an HTML document) to render a dynamic HTML page is not the same as reading advertiser-usable variables within at least one script.

Still further as a basis to reject claim 23, the Examiner stated that "use of cookies by the ad provider inherently includes at least temporary storage of the cookies in a database/datastore". Applicant disagrees with this statement because cookies are a vehicle for storing and retrieving persistent data at a client node. Unless the Examiner can provide a reference teaching otherwise, Applicant is unaware of databases of ad providers that store cookies per se to perform targeted advertising.

Based on any of the above remarks, Applicant contends that a prima facie case of obviousness has not been made for independent claims 10 and 23. Independent of the above remarks, further remarks are made with reference to the claims that depend from claims 10 and 23. The further remarks illustrate that even if independent claims 10 and 23 were obvious, prima facie cases of obviousness have not been made for their dependent claims.

Claims 16 and 29

The rejection of claims 16 and 29 is based on the Examiner stating that a list of search hits/links is taken to be a tree. However, claims 16 and 29 do not merely recite a tree, but feature tree-defined advertiser-usable variables within at least one script of a referring Web resource to enable the referring Web resource to influence targeting of an advertisement resource to display with a Web resource after a user selects a hyperlink to the Web resource from the referring Web resource. This patentably novel feature is neither disclosed nor suggested by either Culliss or Cohn et al.

Claims 17 and 30

The rejection of claims 17 and 30 is based on the Examiner stating that the ordered list of matches to user-submitted search terms provides level numbers of the tree. However, claims 17 and 30 do not merely recite providing a level number of a tree, but feature level-number-indicating advertiser-usable variables within at least one script of a referring Web resource to enable the referring Web resource to influence targeting of an advertisement resource to display with a Web resource after a user selects a hyperlink to the Web resource from the referring Web resource. This patentably novel feature is neither disclosed nor suggested by either Culliss or Cohn et al.

The rejection of claims 17 and 30 is further based on

the Examiner stating that levels can be defined in a variety of ways. Applicant disagrees with this statement. For a particular tree, the level number of a node is specifically defined as the number of edges in the path between the node and a root node (see page 9, lines 4-6 of the present application).

Still further, the Examiner has not considered all of the claim limitations in the rejection of claims 17 and 30. Including the limitations of its base claim, claim 17 features storing the level numbers of the first and second Web resources in the at least one cookie for the client node before any of the user-selectable hyperlinks have been user selected from the referring Web resource. Including the limitations of its base claim, claim 30 features storing the level numbers of the first and second Web resources in the database of the advertisement server node before any of the user-selectable hyperlinks have been user selected from the referring Web resource. These patentably novel features are neither disclosed nor suggested by either Culliss or Cohn et al.

Claims 18-20 and 31-33

The rejection of claims 18-20 and 31-33 is based on the Examiner stating that "any of the links appearing within the tree/list of results can be taken to be 'internal' to the list/tree", "the links on the list/tree can be taken as 'leaves' on the tree", and "the list can be simply taken to be leaves in a list". The Examiner's definitions of

"internal" and "leaf" are inconsistent with their conventional definitions.

Applicant presented a review of trees and graph-related terminology on page 8, line 3 to page 9, line 11 of the present application. In particular, starting on page 9, line 1, a leaf node is conventionally defined as a node with no children, and an internal node is conventionally defined as a node with at least one child.

Thus, the Examiner's statement that "any of the links appearing within the tree/list of results can be taken to be 'internal' to the list/tree" is nonsensical because every tree or list has at least one node that is not internal thereto (i.e. every tree or list has at least one leaf node). Further, the Examiner's statements that "the links on the list/tree can be taken as 'leaves' on the tree" and "the list can be simply taken to be leaves in a list" are nonsensical because a list unto itself can have only one leaf node, in particular the final element of the list.

Further, the Examiner has not considered all of the claim limitations in the rejection of claims 18-20 and 31-33. Including the limitations of its base claim, claims 18-20 feature internal-resource-indicating and/or leaf-resource-indicating advertiser-usable variables for the first and second Web resources that are read from the at least one script and stored in at least one cookie for the client node before any of the hyperlinks have been user selected from the referring Web resource. Including the limitations of its base claim, claims 31-33 feature

internal-resource-indicating and/or leaf-resource-indicating advertiser-usable variables for the first and second Web resources within at least one script that are read from a client node by an advertisement server node and stored in a database of the advertisement server node before any of the hyperlinks have been selected from the referring Web resource. These patentably novel features are neither disclosed nor suggested by either Culliss or Cohn et al.

Claims 21-22 and 34-35

The Examiner stated that claims 21 and 22 are met by Culliss providing a first link having links below it as well as a second link having links below it in a search results list/tree. Applicant disagrees with this statement. Claims 21 and 34 describe specific advertiser-usable variables, each being based on the ancestry of its corresponding Web resource in the tree. More specifically, the particular ancestor on which the advertiser-usable variable is based is the ancestor at a predetermined level number in the tree. Thus, including the limitations in their base claims, claims 21 and 34 feature the first advertisement being targeted for display with the first Web resource based on another Web resource, namely which ancestor of the first Web resource has a particular level number in the tree. This patentably novel feature is neither disclosed nor suggested by either Culliss or Cohn et al.

Claims 14 and 27

The rejection of claims 14 and 27 is based on the Examiner stating that it would have been obvious to have satisfied the advertising requests by reading the cookies to determine URLs. However, the additional limitations in claims 14 and 27 do not pertain to reading the cookies, but rather pertain to reading the advertiser-usable variables within the at least one script of the referring Web resource in response to an advertising request associated with the referring Web resource. Since the acts of receiving the advertising request and reading the variables in claim 14 are performed before the variables have been stored in the cookie(s), the Examiner basis for the rejection is nonsensical.

Claim 36

The rejection of claims 36 and 39-41 is based on the Examiner stating that ads targeted to ordered URLs are taken to be targeted to the ordered positioning within the list. Applicant disagrees with this interpretation. Cohn et al. discloses targeting an ad to a category of content, and transmitting the ad if content from a URL is within the category. Thus, regardless of the ordering of the URLs in Culliss, Cohn et al. would provide the same content-based advertising for each URL based on each URL's content. Further, if the two targeting criteria were equivalent, either Culliss or Cohn et al. would disclose or suggest that changing an ordered position of a particular URL may cause a

different ad to be selected for display with content from the particular URL. Applicant sees no such teaching or suggestion in Culliss or Cohn et al.

The rejection of claims 36 and 39-41 is further based on the Examiner stating that Culliss teaches that the system scoring is based upon the relative positioning of the links within the list/tree. However, this aspect of Culliss is irrelevant to claims 36 and 39-41.

Based on any of the above remarks, Applicant contends that a prima facie case of obviousness has not been made for independent claim 36. Independent of the above remarks, further remarks are made with reference to claims 40 and 41. The further remarks illustrate that even if independent claim 36 were obvious, claims 40 and 41 are non-obvious.

Claims 40 and 41

The rejection of claims 40 and 41 is further based on the Examiner stating that "any of the positions represent URLs which can be used as a basis for targeted ads" (emphasis added). However, the Examiner is using knowledge gleaned only from the Applicant's disclosure, and not from Culliss or Cohn et al. or knowledge which was within the level of ordinary skill at the time the claimed invention was filed, to state what "can be" done. Therefore, the Examiner is using impermissible hindsight in formulating the rejection of claims 40 and 41.

Rejection of claims 13 and 26 under 35 U.S.C. 103(a) over U.S. Patent No. 6,078,916 (Culliss) in view of U.S. Patent No. 6,308,202 (Cohn et al.) and U.S. Patent No. 5,948,061 (Merriman et al.)

Applicant contends that claims 13 and 26 are patentable over Culliss in view of Cohn et al. and Merriman et al. by depending indirectly from base claims 10 and 23, respectively, which are submitted to be patentable over Culliss in view of Cohn et al., and because Merriman et al. neither discloses nor suggests the patentable subject matter of claims 10 and 23.

Claim 13

Regarding claim 13, neither Culliss, Cohn et al., nor Merriman et al. discloses or suggests the patentably novel feature of a referring Web resource, which has a plurality of user-selectable hyperlinks to a plurality of Web resources, influencing targeting of an advertisement resource to display with a Web resource after a user selects a hyperlink to the Web resource by having at least one script that includes advertiser-usable variables specific to the Web resources, which advertiser-usable variables are read from the script and stored in at least one cookie for the client node before any of the hyperlinks have been selected.

Claim 26

Regarding claim 26, neither Culliss, Cohn et al., nor Merriman et al. discloses or suggests the patentably novel feature of a referring Web resource, which has a plurality of user-selectable hyperlinks to a plurality of Web resources, influencing targeting of an advertisement resource to display with a Web resource after a user selects a hyperlink to the Web resource by having at least one script that includes advertiser-usable variables specific to the Web resources, which advertiser-usable variables are read from the script by an advertisement server node and stored in a database of the advertisement server node before any of the hyperlinks have been selected.

Rejection of claim 37 under 35 U.S.C. 103(a) over U.S. Patent No. 6,078,916 (Culliss) in view of U.S. Patent No. 6,308,202 (Cohn et al.) and U.S. Patent No. 6,269,361 (Davis et al.)

The basis of the rejection of claim 37 is the Examiner stating that it would have been obvious to include a component of advertisers paying to affect the placement/order of search results with the scoring and ordering of Culliss' search results, where advertisers pay more for higher listings as taught by Davis et al. The Examiner's combination relates to how much advertisers pay for advertising on a page of search results, whereas in the context of the Examiner's combination, the billing rate in claim 37 is for an advertisement displayed with an article

after the user has clicked on a hyperlink to the article from the search results page.

Since the Examiner has erred in which page is displaying the advertisement, Applicant contends that a prima facie case of obviousness has not been made for claim 37. Further, since claim 37 has a patentably novel feature of charging a higher billing rate for advertising presented with a Web resource to a user after the user has selected a hyperlink to the Web resource based on the hyperlink having a lower level number in a browsing sequence, Applicant contends that claim 37 is patentable over Culliss in view of Cohn et al. and Davis et al.

Rejection of claims 42-44 under 35 U.S.C. 103(a) over U.S. Patent No. 6,078,916 (Culliss) in view of U.S. Patent No. 6,308,202 (Cohn et al.) and www.cookiecentral.com

Claims 43-44

In the rejection of claims 43-44, the Examiner has erred by: not considering the limitations of the at least one cookie in independent claim 10 together with the additional limitations of the same at least one cookie in dependent claims 43 and 44; making statements which contradict statements made in the rejection of independent claim 10; proposing a modification that would render the primary reference (Culliss) unsatisfactory for its intended purpose; and basing the rejection on a motivation to modify Culliss that is contrary to the invention in independent

claim 10.

The Examiner's basis of rejecting independent claim 10 is that the at least one cookie of claim 10 is met by the disclosure in Culliss of a search engine which stores search activity data in cookies so that the search engine can retrieve the data to affect future search result scores. In the rejection of dependent claims 43-44, the Examiner has taken Official Notice that cookies set by a particular domain can only be read by servers from that domain. Since the search engine in Culliss is setting the cookies, the Examiner's Official Notice implies that the cookies in Culliss can only be read by the search engine. However, the Examiner contradicts this implication in the rejection of claims 43-44 by stating that it would be obvious to make those same cookies unreadable by the search engine. Thus, the Examiner's statements in rejecting the base claim and its dependent claims are contradictory by implying that cookies that can only be read by the search engine are unreadable by the search engine.

Further, if the cookies were unreadable by the search engine of Culliss, the search engine of Culliss would not be operative to retrieve the data to affect future search result scores. Thus, the modification of Culliss proposed by the Examiner would render Culliss unsatisfactory for its intended purpose of the search engine affecting future search result scores by storing search activity data in cookies so that the search engine can retrieve the cookies.

Still further, the motivation provided by the Examiner

to modify Culliss "so that the search engine entity can focus its efforts on its core business of providing search results and outsource its advertising services to such a third party" highlights a fundamental misunderstanding by the Examiner in considering these and other claims in the present application. If the search engine entity were to provide the referring Web resource of independent claim 10, the search engine entity would focus on both providing search results and influencing which advertisement is targeted for display after a user clicks on a search result link by setting the values of the advertiser usable-variables within the at least one script.

Claim 42

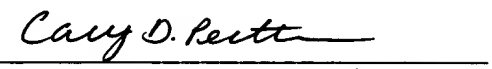
Applicant contends that claim 42 is patentable over Culliss in view of Cohn et al. and www.cookiecentral.com. Neither Culliss, Cohn et al. nor www.cookiecentral.com discloses or suggests the patentably novel feature of a referring Web resource, which has a plurality of user-selectable hyperlinks to a plurality of Web resources, influencing targeting of an advertisement resource to display with a Web resource after a user selects a hyperlink to the Web resource by having at least one script that includes advertiser-usable variables specific to the Web resources, which advertiser-usable variables are read from the script and stored in at least one cookie for the client node before any of the hyperlinks have been selected, the at least one cookie being unreadable by a content node which

provides the Web resource to the client node.

Conclusion

Applicant respectfully appeals for review based on the above arguments.

Respectfully submitted,



Cary D. Perttunen, Ph.D.
Registration No. 38,578
11764 Raintree Court
Shelby Township, MI 48315
Phone & Fax: (586) 781-9319

Dated: October 13, 2004

Claims Appendix

10. A method comprising:

reading a plurality of advertiser-usable variables within at least one script of a referring Web resource from a client node, the referring Web resource comprising a plurality of user-selectable hyperlinks including a first user-selectable hyperlink to a first Web resource and a second user-selectable hyperlink to a second Web resource, the advertiser-usable variables including a first advertiser-usable variable specific to the first Web resource and a second advertiser-usable variable specific to the second Web resource;

storing the first advertiser-usable variable and the second advertiser-usable variable in at least one cookie for the client node before any of the user-selectable hyperlinks has been user-selected from the referring Web resource using the client node; and

after the first hyperlink has been user-selected from the referring Web resource using the client node, displaying by the client node a first advertisement with the first Web resource, wherein the first advertisement is targeted to the

client node by an advertisement server node based on the first advertiser-usable variable stored in the at least one cookie.

11. The method of claim 10 further comprising, after the first user-selectable hyperlink has been user-selected from the referring Web resource using the client node:

receiving a first advertising request associated with the first Web resource;

retrieving the first advertiser-usable variable from the at least one cookie;

selecting the first advertisement from a plurality of advertisements based on the first advertiser-usable variable; and

providing the first advertisement to display with the first Web resource by the client node.

12. The method of claim 11 further comprising, after the second user-selectable hyperlink has been user-selected from the referring Web resource using the client node:

receiving a second advertising request associated with the second Web resource;

retrieving the second advertiser-usable variable from the at least one cookie;

selecting a second advertisement from the plurality of advertisements based on the second advertiser-usable variable;

providing the second advertisement to display with the second Web resource by the client node; and

displaying by the client node the second advertisement with the second Web resource.

13. The method of claim 11 further comprising updating a data structure associated with the first advertisement based on the first advertiser-usable variable.

14. The method of claim 10 further comprising:

receiving an advertising request associated with the referring Web resource, wherein said reading is performed in response to said receiving the advertising request.

16. The method of claim 10 wherein the first advertiser-usable variable and the second advertiser-usable variable are defined by a tree which relates a plurality of Web resources that include the first Web resource and the second Web resource.

17. The method of claim 16 wherein the first advertiser-usable variable indicates a level number of the first Web resource within the tree, and wherein the second advertiser-usable variable indicates a level number of the second Web resource within the tree.

18. The method of claim 16 wherein the first advertiser-usable variable indicates that the first Web resource is an internal resource of the tree, and wherein the second advertiser-usable variable indicates that the second Web resource is an internal resource of the tree.

19. The method of claim 16 wherein the first advertiser-usable variable indicates that the first Web resource is an internal resource of the tree, and wherein the second advertiser-usable variable indicates that the second Web resource is a leaf resource of the tree.

20. The method of claim 16 wherein the first advertiser-usable variable indicates that the first Web resource is a leaf resource of the tree, and wherein the second advertiser-usable variable indicates that the second Web resource is a leaf resource of the tree.

21. The method of claim 16 wherein the Web resources include a plurality of Web resources having a predetermined level number in the tree, wherein the first advertiser-usable variable is based on which of the Web resources having the predetermined level number is an ancestor of the first Web resource in the tree, and wherein the second advertiser-usable variable is based on which of the Web resources having the predetermined level number is an ancestor of the second Web resource in the tree.

22. The method of claim 21 wherein the predetermined level number is one.

23. A method comprising:

reading a plurality of advertiser-usable variables within at least one script of a referring Web resource from a client node, the referring Web resource comprising a plurality of user-selectable hyperlinks including a first user-selectable hyperlink to a first Web resource and a second user-selectable hyperlink to a second Web resource, the advertiser-usable variables including a first advertiser-usable variable specific to the first Web resource and a second advertiser-usable variable specific to the second Web resource, wherein said reading is performed by an advertisement server node before any of the user-selectable hyperlinks has been user-selected from the referring Web resource using the client node;

storing the first advertiser-usable variable and the second advertiser-usable variable in a database of the advertisement server node before any of the user-selectable hyperlinks has been user-selected from the referring Web resource using the client node; and

after the first hyperlink has been user-selected from the referring Web resource using the client node, displaying

by the client node a first advertisement with the first Web resource, wherein the first advertisement is targeted to the client node by the advertisement server node based on the first advertiser-usable variable stored in the database.

24. The method of claim 23 further comprising, after the first user-selectable hyperlink has been user-selected from the referring Web resource using the client node:

receiving a first advertising request associated with the first Web resource;

retrieving the first advertiser-usable variable from the database of the advertisement server node;

selecting the first advertisement from a plurality of advertisements based on the first advertiser-usable variable; and

providing the first advertisement to display with the first Web resource by the client node.

25. The method of claim 24 further comprising, after the second user-selectable hyperlink has been user-selected from the referring Web resource using the client node:

receiving a second advertising request associated with the second Web resource;

retrieving the second advertiser-usable variable from the database of the advertisement server node;

selecting a second advertisement from the plurality of advertisements based on the second advertiser-usable variable;

providing the second advertisement to display with the second Web resource by the client node; and

displaying by the client node the second advertisement with the second Web resource.

26. The method of claim 24 further comprising updating a data structure associated with the first advertisement based on the first advertiser-usable variable.

27. The method of claim 23 further comprising:

receiving an advertising request associated with the referring Web resource, wherein said reading is performed in response to said receiving the advertising request.

29. The method of claim 23 wherein the first advertiser-usable variable and the second advertiser-usable variable are defined by a tree which relates a plurality of Web resources that include the first Web resource and the second Web resource.

30. The method of claim 29 wherein the first advertiser-usable variable indicates a level number of the first Web resource within the tree, and wherein the second advertiser-usable variable indicates a level number of the second Web resource in the tree.

31. The method of claim 29 wherein the first advertiser-usable variable indicates that the first Web resource is an internal resource of the tree, and wherein the second advertiser-usable variable indicates that the second Web resource is an internal resource of the tree.

32. The method of claim 29 wherein the first advertiser-usable variable indicates that the first Web resource is an internal resource of the tree, and wherein the second advertiser-usable variable indicates that the second Web resource is a leaf resource of the tree.

33. The method of claim 29 wherein the first advertiser-usable variable indicates that the first Web resource is a leaf resource of the tree, and wherein the second advertiser-usable variable indicates that the second Web resource is a leaf resource of the tree.

34. The method of claim 29 wherein the Web resources include a plurality of Web resources having a predetermined level number in the tree, wherein the first advertiser-usable variable is based on which of the Web resources having the predetermined level number is an ancestor of the first Web resource in the tree, and wherein the second advertiser-usable variable is based on which of the Web resources having the predetermined level number is an ancestor of the second Web resource in the tree.

35. The method of claim 34 wherein the predetermined level number is one.

36. A method comprising:

targeting an advertisement to a particular numerical range of one or more positions in browsing sequences of Web resources;

receiving, from a client node, a user selection of a hyperlink to a Web resource having a browsing sequence position within the particular numerical range associated with the advertisement;

selecting the advertisement to display with the Web resource based on said targeting and the browsing sequence position of the Web resource;

providing the advertisement to the client node; and

displaying, by the client node, the advertisement with the Web resource.

37. The method of claim 36 further comprising charging a higher billing rate for the advertisement for a first browsing sequence position than for a second browsing sequence position, wherein the first browsing sequence position is defined by a first level number and the second browsing sequence position is defined by a second level

number, and wherein the first level number is less than the second level number.

39. The method of claim 36 further comprising:

performing a search based on a search expression received from the client node to identify a plurality of search-identified Web resources that is a subset of a larger set of Web resources;

providing, to the client node, a referring Web resource having user-selectable hyperlinks to the search-identified Web resources;

wherein the hyperlink is one of the user-selectable hyperlinks of the referring Web resource.

40. The method of claim 36 wherein the particular numerical range consists of one position defined by one level number.

41. The method of claim 36 wherein the particular numerical range comprises a plurality of positions defined by a plurality of level numbers.

42. The method of claim 10 wherein the at least one cookie is readable by the advertisement server node, but is unreadable by a content node which provides the first Web resource to the client node.

43. The method of claim 10 wherein the at least one cookie is readable by the advertisement server node, but is unreadable by a content node which provides the referring Web resource to the client node.

44. The method of claim 10 wherein the at least one cookie is readable by the advertisement server node, but is unreadable by content nodes which provide the referring Web resource and the first Web resource to the client node.

Evidence Appendix

None.

Related Proceedings Appendix

None.